



Economic Impact Analysis Virginia Department of Planning and Budget

11 VAC 5-40 – State Lottery Department On-Line Game Regulations October 8, 2002

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.G of the Administrative Process Act and Executive Order Number 21 (02). Section 2.2-4007.G requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic impacts.

Summary of the Proposed Regulation

The proposed changes include repeal of numerous requirements stated in the Code of Virginia, some other requirements that are no longer applicable, and several other requirements that are addressed in non-regulatory documents published by the State Lottery Department (the department).

Estimated Economic Impact

These regulations apply to online lottery games offered by the department. Online games give players the chance to win a prize. They are played through sales terminals linked to central computers via communications networks. Currently, the department offers five types of online games, which include Pick 3, Pick 4, Cash 5, Lotto South, and Mega Millions. The prizes offered by online games may be high ranging from \$2 to multi-millions for Lotto South and Mega Millions. For example, on May 9, 2000, the jackpot for an online game then known as the Big Game reached a record \$363 million. The jackpot for Mega Millions, a recently adopted multi state game in place of the Big Game, is believed to have the potential to reach up to \$500

million. Last year the revenues from online games were about \$543 million. These revenues are allocated among the winners for prizes, retailers for compensation, the department for operating expenses, and the Lottery Proceeds Fund for public education.

The proposed changes are, in large part, designed to help reorganize two of the department's current regulations into two new regulations. Currently, the department has online game regulations (11 VAC 5-40) and instant game regulations (11 VAC 5-30) in place. The online game regulations, which are being repealed by these amendments, contain rules for both licensing of lottery retailers and the rules for gaming. Licensing rules establish eligibility criteria for retailers, application procedures, general licensing standards, license fees, rules for termination of licenses, rules for inspection of retailers, etc. And, gaming rules contain provisions on prize structures, ticket prices, chances of winning, retailer compensation, retailer transactions, payment of prizes, etc. Similarly, instant game regulations, which are being promulgated by a separate regulatory action, contain requirements for both licensing of lottery retailers and the requirements for gaming. Since the two current regulations contain similar provisions for different games, there is overlapping regulatory language on licensing and gaming. In order to reduce and simplify the regulatory language, the State Lottery Board (the board) proposes to reorganize the lottery regulations that contain provisions for online and instant games under two new categories: licensing (11 VAC 5-31) and gaming (11 VAC 5-41) regulations. In short, the board proposes to reorganize online and instant game regulations under licensing and gaming regulations.

In addition to the reorganization, the board proposes to update the regulations to reflect the changes in practice that occurred since 1996 when these regulations were last amended. Although this proposed change will repeal all of the online game regulations, some of the current requirements will appear in new replacement regulations without any change and some with modifications. The new or modified requirements are discussed in proposed replacement regulations as appropriate. This report discusses only those provisions that will not appear in the proposed licensing and gaming regulations that are separate from this regulatory action because they will be completely removed by these changes.

One of the changes is removing the requirement to pay tickets by cash, check, cashier's check, travelers check, or money order, but not by credit cards, food stamps, or food coupons.

This requirement is in section 58.1-4007.A.2 of the Code of Virginia and will continue to be enforced under the statutory language. Similarly, the language on penalty for counterfeited, forged, or altered tickets will be repealed because the same requirement is stated in section 58.1-4017 of the Code of Virginia and will continue to be enforced. However, these two changes may introduce small benefits to affected entities in terms of eliminating overlapping provisions between the statute and the regulations, but also small costs in terms of time in locating these requirements in the statute.

The proposed changes will also repeal some other provisions because they are redundant or unnecessary. These include omitting the specific requirement that the board determine the details of a prize structure such as prize amounts, types of non-cash prizes and the amount, type of jackpot prize, chances of winning, and percent return of gross sales to winners because these details are essential components of the prize structure and the language to require the board to approve the prize structures for all games will be retained in replacement regulations. Additionally, the definition of life of a claim on behalf of a group, company, corporation will be removed because only natural persons can claim prizes due to the amendments to the section 58.1-4019.B of the Code of Virginia which require that all prizes must be claimed by a natural person to prevent hiding winner's identity under a limited liability corporation or other types of organizations. Removal of any of these requirements is unlikely to create any significant economic effects.

Finally, removal of several other requirements may provide some flexibility to the department at the expense of reducing public participation in regulation development. The requirements for ticket cancellation, which include rules for deadline for cancellation, methods of cancellation, issuing credits to retailers for tickets that could not be cancelled, and audit method of cancelled tickets are currently contained in the rules for each game and will be removed from the regulations. Similarly, the requirements on providing prompt service to customers and consequences of not doing so will be repealed from the regulations. Also, the requirement that the conduct of subscriptions is subject to all applicable regulations will be removed because this requirement is included in game rules. Addressing these requirements elsewhere is expected to provide some flexibility to the department in changing procedures on ticket cancellations, providing prompt service to customers, and the conduct of subscriptions so as to respond promptly to changing business conditions, but also may reduce the public

participation regarding any potential changes on these issues, as potential changes will be implemented without having to go through the usual regulatory process.

Businesses and Entities Affected

Lottery retailers selling online games and the online game players are subject to these regulations. According to the department, 3,712 retailers are licensed to sell online games. Although the number of online game players is not known, based on a survey conducted by the department in 2002, about 3.5 million adults have played an online or instant Virginia lottery game some time in their lives and approximately 2.9 million have played in the past 12-month period.

Localities Particularly Affected

The proposed regulations apply to all localities in Virginia.

Projected Impact on Employment

No significant impact on employment is expected.

Effects on the Use and Value of Private Property

The proposed changes are not expected to significantly affect the use and value of private property.